
REPUBLIC OF SOUTH AFRICA

STANDARDS ACT

IRIPHABLIKI YOMZANTSI AFRIKA

**UMTHETHO
WEMIGANGATHO**

No 8, 2008

ACT

To provide for the development, promotion and maintenance of standardisation and quality in connection with commodities and the rendering of related conformity assessment services; and for that purpose to provide for the continued existence of the SABS, as the peak national institution; to provide for the establishment of the Board of the SABS; to provide for the repeal of the Standards Act, 1993; to provide for transitional provisions; and to provide for matters connected therewith.

PREAMBLE

WHEREAS it is desirable to—

- provide for the continuation of the SABS as the peak national standardisation institution in South Africa responsible for the development, maintenance and promotion of South African National Standards;
- ensure provision of an internationally recognised standardisation system that continue to support the needs of South African enterprises competing in a fast-paced global economy; and
- promote South African National Standards as a means to facilitate international trade and enhancing South Africa's economic performance and transformation,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

TABLE OF CONTENTS

Sections

PART 1 5

DEFINITIONS AND PURPOSE

1. Definitions
2. Purpose of Act

PART 2

CONTINUATION OF SOUTH AFRICAN BUREAU OF STANDARDS 10

3. Continuation of SABS
4. Objects of SABS
5. Functions of SABS

BOARD OF SOUTH AFRICAN BUREAU OF STANDARDS

6. Establishment and composition of Board of SABS 15
7. Term of office of members of Board

8. Disqualification from membership
9. Removal from and vacation of office
10. Remuneration and terms and conditions of appointment of members of Board
11. Meetings of Board
12. Conflict of interest of members of Board 5
13. Committees of Board
14. Advisory Forum
15. Government Consultative Forum

EXECUTIVE MANAGEMENT

16. Appointment of Chief Executive Officer 10
17. Employment contract and performance agreement
18. Appointment of staff
19. Services of non-employees
20. Delegation

PART 3 15

FINANCIAL MANAGEMENT

21. Funding and investments
22. Financial year and accounting

PART 4

SOUTH AFRICAN NATIONAL STANDARDS 20

23. National Norm for setting and amending of South African National Standards
24. Issuing of South African National Standard
25. Recognised Standards Development Organisations
26. Copyright in South African National Standards and publications of SABS
27. Limitations on certain claims pertaining to compliance with South African National Standard 25
28. Incorporation of South African National Standards in laws

PART 5

GENERAL PROVISIONS

29. Certain acts not interpreted as assurances or guarantees 30
30. Breach of confidence
31. Limitation of liability
32. Offences and penalties
33. Regulations
34. Transitional provisions 35
35. Repeal of law
36. Amendment of law
37. Short title and commencement

PART 1

DEFINITION AND PURPOSE 40

Definitions

1. (1) In this Act, unless the context indicates otherwise—
 “**amendment**”, with regard to a standard, includes complete or partial substitution or alteration of one or more of the provisions of the standard;
 “**Board**” means the Board of the SABS established in terms of section 6; 45
 “**commodity**” includes an element or characteristic, or a category or system, of some commodity;

“**conformity assessment**” means the procedure used to determine, directly or indirectly, that the relevant requirement in technical regulations, standards or any other relevant and validated documentation has been fulfilled;

“**consensus**” means general agreement, characterised by the absence of sustained opposition to substantial issues by an important part of the concerned interests, arrived at by a process that involves seeking to take into account the views of the parties concerned and to reconcile any conflicting arguments; 5

“**issue**”, with regard to a South African National Standard, a standard or a publication, includes making available by means of electronic, photographic or another medium; 10

“**manufacture**” means produce, assemble, alter, modify, adapt, convert, process or treat;

“**Minister**” means the Minister responsible for trade and industry in the Republic;

“**product**” means any commodity that is manufactured and any agricultural product, including fish and fish products; 15

“**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**recognised standards development organisation**” means an organisation recognised by the SABS under section 25 for the development of standards to be approved by the SABS as South African National Standards; 20

“**service**” means any service normally provided for remuneration, and at the individual request of a recipient of services;

“**SABS**” means the South African Bureau of Standards;

“**South African National Standard**” means a standard approved by the SABS under this Act; 25

“**standard**” means a document that provides for common and repeated use, rules, guidelines or characteristics for products, services, or processes and production methods, including terminology, symbols, packaging, marking or labelling requirements as they apply to a product, service, process or production method;

“**system**”, with regard to a commodity, means a system which is designed to achieve a particular purpose or to perform a specific function; 30

“**this Act**” includes a regulation made in terms of this Act.

Purpose of Act

2. The purpose of the Act is to provide—
- (a) a legal framework for the development, promotion and maintenance of South African National Standards in the Republic and the rendering of conformity assessment services and related activities; 35
 - (b) for the continuation of the SABS as the peak national institution for the development, promotion and maintenance of South African National Standards; and 40
 - (c) for the establishment of the Board of the SABS.

PART 2

CONTINUATION OF THE SOUTH AFRICAN BUREAU OF STANDARDS

Continuation of SABS

3. (1) The SABS established by section 2 of the Standards Act, 1945 (Act No. 24 of 1945), continues to exist as a public entity, notwithstanding the repeal of the Standards Act, 1993 (Act No. 29 of 1993). 45
- (2) The SABS is a juristic person, and must operate and perform its functions in accordance with this Act.
- (3) The continuation of the SABS does not affect the validity of any action taken prior to the commencement of this Act. 50
- (4) The Public Finance Management Act applies to the SABS.

Objects of SABS

4. (1) The objects of the SABS are to—
- (a) develop, promote and maintain South African National Standards; 55

- (b) promote quality in connection with commodities, products and services; and
- (c) render conformity assessment services and matters connected therewith.
- (2) In order to achieve its objects, the SABS may—
 - (a) develop, issue, promote, maintain, amend or withdraw South African National Standards and related normative publications serving the standardisation needs of the South African community; 5
 - (b) provide reference materials, conformity assessment services, and related training services in relation to standards, including a voluntary SABS Mark Scheme proving assurance of product conformity;
 - (c) obtain membership in international and foreign bodies having any objects similar to an object of the SABS; 10
 - (d) review involvement in international standards committees regularly to ensure resources are targeted where they are of most relevance to South Africa;
 - (e) establish and maintain the necessary expertise at internationally acceptable level; 15
 - (f) co-ordinate, interact and manage the international and bilateral interaction with other national standards bodies from other countries;
 - (g) provide information services to deal with enquiries about standards, handle the sale and distribution of South African National Standards and related publications, as well as similar publications from international and foreign bodies; 20
 - (h) provide the South African enquiry point to maintain the South African notification system in terms of the Technical Barriers to Trade Agreement of the World Trade Organisation;
 - (i) provide a research and development programme in terms of the need for new standards, improvement of existing standards, standardisation of test methodology and the sketching of future scenarios that might affect the standards environment; 25
 - (j) develop a procedure through which other bodies with sectoral expertise can be recognised as Standards Development Organisations and through which the standards of such organisations can be published by the SABS as South African National Standards; 30
 - (k) perform, in so far as it is not repugnant to or inconsistent with the provisions of any Act of Parliament, such functions as the Minister may assign to the SABS; 35
 - (l) use technical committees to develop and amend South African National Standards.

Functions of SABS

- 5. (1) The SABS may—
 - (a) acquire or dispose of property or any right in respect thereof, but ownership in significant immovable property may be acquired or disposed of only with the consent of the Minister; 40
 - (b) open and operate banking accounts in the name of the SABS;
 - (c) invest any of its funds not immediately required;
 - (d) insure the SABS— 45
 - (i) against any loss, damage or risk; and
 - (ii) against any liability it may incur in the application of this Act;
 - (e) conclude agreements with organs of state and other persons;
 - (f) institute or defend any legal action; or

- (g) generally deal with any matter that is necessary or incidental to the performance of its functions in terms of this Act.
- (2) An agreement concluded in terms of subsection (1)(e) may not conflict with any international requirement binding on the SABS.
- (3) The SABS may charge fees— 5
 - (a) in respect of the setting and issuing of a South African National Standard;
 - (b) in respect of training services rendered in connection with standardisation or with any standards; and
 - (c) in regard to the provision of any service or product provided by the SABS.
- (4) The SABS may charge interest in respect of money payable to it but which has not yet been paid, from a date on which such money became payable, except in respect of money payable by the State. 10
- (5) The SABS may establish one or more companies to perform any of the functions of the SABS in terms of this Act, except the setting of a South African National Standard in terms of sections 23 and 24. 15
- (6) The members of the Board of the SABS appointed in terms of section 6 must be appointed as the members of the Board of any company established in terms of subsection (5).

BOARD OF SOUTH AFRICAN BUREAU OF STANDARDS

Establishment and composition of Board of SABS 20

- 6. (1) There is hereby established a board of the SABS.
- (2) The Board consists of not less than 7 and not more than 9 members, of whom—
 - (a) one is the Chief Executive Officer of the SABS by virtue of his or her office; and
 - (b) the rest are persons appointed by the Minister and who meet the criteria 25 contemplated in subsection (3)(b).
- (3) When appointing the members of the Board, the Minister must ensure that such members—
 - (a) are broadly representative of the population of the Republic; and
 - (b) have sufficient knowledge, experience or qualifications relating to the 30 functions of the SABS and the responsibilities of the Board, including in particular business management, finance, marketing, international or foreign standardisation and technical infrastructure matters.
- (4) The Minister must designate one member of the Board as chairperson.

Term of office of members of Board 35

- 7. (1) The members of the Board contemplated in section 6(2)(b) hold office for a period not exceeding five years and are eligible for reappointment.
- (2) Members of the Board may not serve more than two consecutive terms.

Disqualification from membership

- 8. A person may not be appointed or continue to serve as a member of the Board if he 40 or she—
 - (a) is an unrehabilitated insolvent;
 - (b) has at any time been convicted of an offence involving dishonesty;
 - (c) has, as a result of improper conduct, been removed from an office of trust; or
 - (d) has been declared by a court to be mentally ill or unfit. 45

Removal from and vacation of office

- 9.** (1) Subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), the Minister may at any time after consulting the Board terminate the term of office of any member of the Board if there are good reasons for doing so.
- (2) A member of the Board must vacate his or her office if such member is absent from three consecutive meetings of the Board without the consent of the chairperson. 5
- (3) A member of the Board may resign by giving at least three months' written notice.
- (4) If a member of the Board dies or vacates his or her office, the Minister may appoint any person who meets the criteria contemplated in section 6(3)(b) for the said member's unexpired term of office. 10

Remuneration and terms and conditions of employment of members of Board

- 10.** (1) The Minister must, after consultation with the Minister of Finance, determine the remuneration, allowances and terms and conditions of appointment of members of the Board who are not in the employ of an organ of state.
- (2) Members of the Board who are employed by an organ of state must be reimbursed for out-of-pocket expenses. 15

Meetings of Board

- 11.** (1) The Board must meet at least four times a year.
- (2) The chairperson of the Board decides when and where the Board must meet, but a majority of the members of the Board may request the chairperson in writing to convene a meeting at a time set out in the request. 20
- (3) The chairperson presides at all meetings of the Board.
- (4) If the chairperson is absent from a meeting of the Board, the members present at such a meeting must elect from among their number a member to preside at that meeting. 25
- (5) A majority of the members of the Board constitutes a quorum for a meeting of the Board.
- (6) Decisions of the Board require the supporting vote of a majority of members present at a meeting.
- (7) The Board must keep minutes of its proceedings and decisions. 30
- (8) The Board may, by resolution, make rules to further regulate its proceedings.

Conflict of interest of members of Board

- 12.** (1) A member of the Board may not have a conflict of interest with the SABS.
- (2) A member of the Board who has a direct or indirect financial, personal or other interest in any matter which is to be discussed at a meeting and which entails or may entail a conflict or possible conflict of interest must, before or during such meeting, declare the interest. 35
- (3) Any person may, in writing, inform the chairperson of a meeting, before a meeting, of a conflict or possible conflict of interest of a member of the Board of which such person may be aware. 40
- (4) A Board member referred to in subsections (2) and (3) is obliged to recuse himself or herself from the meeting during the discussion of the matter and the voting thereon.

Committees of Board

- 13.** (1) The Board may establish committees to assist it to perform its functions.
- (2) The Board must determine the composition, rules and procedures of such committees. 45
- (3) The Board may from time to time dissolve or reconstitute a committee.
- (4) The Board must ratify any resolution of a committee.

Advisory Forum

14. (1) The Board must establish an Advisory Forum with a balance of interests consisting of representatives of organisations who have an interest in the matters contemplated in this Act.

(2) The Advisory Forum must advise the Board on— 5

(a) matters in respect of which the SABS could play a role; and

(b) any other matter on which the Board requests advice.

(3) The Board must establish a constitution and, if necessary, rules for the Advisory Forum.

Government Consultative Forum 10

15. (1) The Board must establish a Government Consultative Forum consisting of relevant government departments who have an interest in the matters contemplated in this Act.

(2) The Government Consultative Forum must advise the Board on—

(a) matters contemplated in this Act in respect of which the SABS could play a 15 role;

(b) any other matter on which the Board requests advice.

(3) The Board must establish a constitution and, if necessary, rules for the Government Consultative Forum.

EXECUTIVE MANAGEMENT 20

Appointment of Chief Executive Officer

16. (1) The Board must, in concurrence with the Minister, appoint a suitably qualified person as the Chief Executive Officer.

(2) The Chief Executive Officer holds office for a period not exceeding five years and may be reappointed upon the expiry of his or her term of office. 25

(3) The Chief Executive Officer is responsible for the efficient management of the SABS and must perform any duty assigned or delegated to him or her by the Board.

(4) The Chief Executive Officer is accountable to the Board.

(5) If the Chief Executive Officer is unable to fulfil his or her functions, the Board may appoint a person who meets the criteria contemplated in subsection (1) as an acting 30 Chief Executive Officer to exercise the powers and perform the functions of the Chief Executive Officer, for the unexpired term of office of the Chief Executive Officer or until the Chief Executive Officer is able to perform his or her functions.

Employment contract and performance agreement

17. (1) The employment contract of the Chief Executive Officer must be in writing 35 and must incorporate in an appropriate form the provisions of section 57 of the Public Finance Management Act.

(2) The Board and the Chief Executive Officer must conclude a performance agreement for the Chief Executive Officer—

(a) within a reasonable time after the appointment of the Chief Executive Officer; 40 and

(b) thereafter, annually within one month of the commencement of each financial year.

(3) The performance agreement must include—

(a) measurable performance objectives and targets that must be met and the time 45 frames within which those performance objectives and targets must be met;

(b) standards and procedures for evaluating performance and intervals for evaluation; and

(c) the consequence of substandard performance.

Appointment of staff

18. (1) The Chief Executive Officer must, after consulting the Board, appoint staff in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994), to assist the SABS in carrying out its functions.

(2) The remuneration, allowances, benefits and other terms and conditions of employment of such staff must be determined in terms of the Public Service Act, 1994. 5

Services of non-employees

19. (1) The SABS may, for a specified period, acquire the services of any person to perform any task or function assigned to him or her by the SABS in terms of this Act.

(2) The remuneration of such person must be determined in accordance with the Public Service Act, 1994 (Proclamation No. 103 of 1994). 10

Delegation

20. (1) The Board may delegate any of its functions to the Chief Executive Officer in accordance with this section.

(2) The Chief Executive Officer may delegate any function conferred or imposed upon him or her by or under this Act to any employee of the SABS with the appropriate knowledge and experience. 15

(3) A delegation under subsections (1) and (2) must be in writing and—

- (a) may be subject to any conditions or restrictions determined by the Board or the Chief Executive Officer; 20
- (b) does not prevent the exercise of that power by the Board or the Chief Executive Officer; and
- (c) may be withdrawn or amended in writing by the Board or the Chief Executive Officer.

PART 3

25

FINANCIAL MANAGEMENT

Funding and investments

21. (1) The funds of the SABS consist of—

- (a) moneys appropriated by Parliament for that purpose;
- (b) income derived from fees charged in accordance with section 5(3); 30
- (c) interest charged in accordance with section 5(4);
- (d) income derived by the SABS from its investment; and
- (e) money received from any other source.

(2) The SABS may invest any of its funds not immediately required—

- (a) subject to any investment policy that may be prescribed in terms of section 7(4) of the Public Finance Management Act; and 35
- (b) in such manner as may be prescribed by the Minister.

Financial year and accounting

22. The financial year of the SABS is from 1 April in any year to 31 March in the following year. 40

SOUTH AFRICAN NATIONAL STANDARDS

National Norm for setting and amending of South African National Standards

- 23.** (1) The SABS must, through a national consensus-building process, develop and maintain a National Norm for the development of South African National Standards.
- (2) The Norm contemplated in subsection (1) must— 5
- (a) detail a process for the development and amendment of South African National Standards, which ensures that as far as possible—
 - (i) the latest technological developments are considered;
 - (ii) the interests of all parties concerned, including manufacturers, suppliers and consumers, are considered; 10
 - (iii) such South African National Standards are harmonised with international standards, if applicable; and
 - (iv) there has been an appropriate national consensus-building process in developing such South African National Standards; and
 - (b) contain an appeal procedure for resolving disputes and deadlocks. 15

Issuing of South African National Standards

- 24.** (1) The SABS must, by notice in the *Gazette*—
- (a) set and issue as a South African National Standard, a standard developed through its own processes and issue amendments to such a standard;
 - (b) approve and issue as a South African National Standard, a standard developed and set by a recognised standards development organisation and issue amendments to such a standard; or 20
 - (c) withdraw any South African National Standard issued in terms of paragraph (a) or (b);
- (2) The notice contemplated in subsection (1) must— 25
- (a) state the title and number of the South African National Standard; and
 - (b) contain a summary of the scope and purport of that South African National Standard or the amendment thereof.
- (3) In setting, issuing, approving and amending a South African National Standard in terms of subsection (1), the SABS must ensure as far as possible that the processes detailed in the Norm contemplated in section 23(1) is complied with. 30
- (4) A South African National Standard set and issued in terms of subsection (1) may be based on one or more provisions of standards issued by a foreign or international body having objects similar to those of the SABS.
- (5) The SABS may develop, issue, amend or withdraw normative and informative documents other than South African National Standards. 35
- (6) The documents issued in terms of subsection (5) do not have the status of South African National Standards.
- (7) Subject to the provisions of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), or the Liquor Products Act, 1989 (Act No. 60 of 1989), no person may issue a document which creates or may create the impression that it contains a South African National Standard as contemplated in this Act, unless it is issued in terms of this Act. 40
- (8) A South African National Standard in respect of a commodity, product or service to which the Agricultural Product Standards Act, 1990, or the Liquor Products Act, 1989, apply, may be set or amended in accordance with the terms and conditions of an agreement entered into by the Board and the Director-General of the department responsible for Agriculture. 45

Recognised Standards Development Organisations

- 25.** (1) The SABS must appoint an organisation as a recognised standards development organisation for a specified scope of activity, in accordance with criteria developed in terms of subsection (3). 5
- (2) The SABS must develop and maintain a South African National Standard setting out the criteria to be met and maintained by the organisation contemplated in subsection (1). 5
- (3) The recognised standards development organisation must develop and maintain standards within its specified scope of activity for approval and issue by the SABS as a South African National Standard. 10
- (4) The SABS must maintain and make available to the public a register of recognised standards development organisations and their specified scope of activity. 10

Copyright in South African National Standards and publications of SABS

- 26.** (1) Notwithstanding the provisions of any other law, the copyright in a South African National Standard or a publication issued by the Board vests in the SABS. 15
- (2) No person may, without the authorisation of the SABS in any manner or form, publish, reproduce or record any document or part thereof.
- (3) Subsection (2) does not prevent any person from making a copy of such a document for his or her own personal use.

Limitations on certain claims pertaining to compliance with South African National Standard 20

- 27.** (1) No person may falsely claim, declare or conduct his or her affairs or businesses or carry out an occupation or trade under a name or in a manner likely to create the impression that any commodity, product or service complies with a South African National Standard or other publication of the SABS. 25
- (2) No person may falsely claim or declare that any commodity, product or service complies with a South African National Standard or other publication of the SABS.
- (3) The SABS may institute legal proceedings to restrain or claim for damages in relation to subsection (1) or (2).

Incorporation of South African National Standards in laws 30

- 28.** (1) A South African National Standard, or any provision thereof, that has been published in terms of this Act in respect of any commodity, product or service which may affect public safety, health, or environmental protection, may be incorporated in any law.
- (2) The South African National Standard, or any provision thereof, contemplated in subsection (1) may be incorporated by referring to— 35
- (a) the title and the number; or
 - (b) the title, the number and the year or edition number.

- (3) If the South African National Standard, or any provision thereof, contemplated—
- (a) in subsection (2)(a) is subsequently amended, such amended South African National Standard, or any provision thereof, is deemed to be incorporated;
 - (b) in subsection (2)(b) is subsequently amended, such amended South African National Standard, or any provision thereof, is not deemed to be incorporated. 5
- (4) Any South African National Standard or any provision thereof, incorporated in terms of subsection (2)(a) or (b) or (3)(a) may be withdrawn.

PART 5

GENERAL PROVISIONS

Certain acts not interpreted as assurances or guarantees 10

29. Any function performed under this Act by the Minister, the SABs, the Board, a member of the Board, a committee referred to in section 13 or a member of such committee, the Chief Executive Officer or an employee of the SABs in connection with any commodity, product, material, substance, service, act or matter, shall not be interpreted as an assurance or a guarantee of any nature in respect of that commodity, product, service, material, substance, act or matter. 15

Breach of confidence

30. (1) Any person who is or was involved in the performance of any function in terms of this Act, must not disclose any information which he or she obtained in the performance of such a function. 20

(2) Subsection (1) does not apply to information disclosed—

- (a) to the Minister, the chairperson of the Board or the Chief Executive Officer;
- (b) for the purposes of proper administration or enforcement of this Act;
- (c) in terms of any law or as evidence in any court of law; or
- (d) for the purpose of the administration of justice. 25

Limitation of liability

31. (1) The State Liability Act, 1957 (Act No. 20 of 1957), applies in respect of the SABs, and in such application a reference in that Act to a Minister of a department must be construed as a reference to the Chief Executive Officer of the SABs.

(2) No person is liable for anything done or omitted in good faith when performing a function or exercising a power in terms of this Act. 30

Offences and penalties

32. (1) Any person who falsely represents any material or substance to be reference material supplied by the SABs is guilty of an offence.

(2) Any person who is convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding two years. 35

(3) A court convicting any person of an offence in terms of this Act may, in addition to any penalty imposed in respect of that offence—

- (a) and subject to subsection (4), order that a commodity, a consignment or batch of a commodity or product, any other article or any material or substance in respect of which that offence was committed, be forfeited to the State; and 40
- (b) summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence and impose on that person a fine to a maximum equal to the amount so assessed and, in default of payment of such amount, imprisonment for a period not exceeding one year. 45

(4) The Minister must, subject to subsection (3)(b), generally or in a particular case, determine the manner in which the forfeited goods referred to in subsection (3)(a) may be dealt with.

(5) Section 35(4) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes in the case of a forfeiture referred to in subsection (3)(a). 5

(6) Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall be competent to impose any penalty provided for in this Act.

Regulations

33. The Minister may make regulations regarding any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act. 10

Transitional provisions

34. (1) For purposes of this section "effective date" means the date on which this Act comes into effect.

(2) As from the effective date— 15

- (a) all notices, designations and certificates issued in terms of the Standards Act, 1993 (Act No. 29 of 1993), in respect of any matter dealt with in that Act, are deemed to have been issued in terms of this Act;
- (b) all regulations made in terms of the Standards Act, 1993 (Act No. 29 of 1993), in respect of any matter dealt with in that Act, are deemed to have been made in terms of this Act; 20
- (c) the employees of the SABS, except the employees employed in the regulatory department of the SABS, remain employees of the SABS;
- (d) the President of the SABS appointed in terms of section 10 of the Standards Act, 1993, is deemed to be the Chief Executive Officer of the SABS and remains in office for the unexpired term of his or her office; 25
- (e) all assets, liabilities, rights and obligations of the SABS, except assets, liabilities, rights and obligations of the regulatory department of the SABS, remain the assets, liabilities, rights and obligations of the SABS;
- (f) the members of the Council of the SABS appointed in terms of section 7(1) of the Standards Act, 1993 (Act No. 29 of 1993), are deemed to be members of the Board of the SABS established in terms of this Act; and 30
- (g) a specification, code of practice, standard or document referred to in section 16 of the Standards Act, 1993 (Act 29 of 1993), which is in force in terms of that Act, is deemed to be a South African National Standard which has been set and issued in terms of this Act. 35

(3) Any action taken by the SABS prior to the commencement of this Act is deemed to have been taken in terms of this Act.

Repeal of law

35. The Standards Act, 1993 (Act No. 29 of 1993), is hereby repealed. 40

Amendment of law

36. Each of the laws referred to in the Schedule are hereby amended to the extent specified in that schedule.

Short title and commencement

37. This Act is called the Standards Act, 2008, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

SCHEDULE

LAWS AMENDED

(Section 36)

No. and year of Act	Short Title	Extent of amendment	
Act 77 of 1973	Trade Metrology Act, 1973	1. Amendment of section 1 by—	5
		(a) the substitution for the definition of “ accredited laboratory ” of the following definition:	10
		“ ‘ accredited laboratory ’ means any laboratory accredited as contemplated in [section 3(c) of the Standards Act, 1993 (Act No. 29 of 1993)] the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, 2006 (Act No. 19 of 2006);”;	15
		(b) the insertion after the definition of “ accredited laboratory ” of the following definition:	20
		“ ‘ Board ’ means the Board as defined in section 1 of the <u>National Regulator for Compulsory Specifications Act, 2008;</u> ”;	25
		(c) the insertion after the definition of “certify” of the following definition:	
		“ ‘ Chief Executive Officer ’ means the Chief Executive Officer contemplated in section 21 of the <u>National Regulator for Compulsory Specifications, 2008;</u> ”	30
		(d) the substitution for the definition of “ measuring unit ” of the following definition:	35
		“ ‘ measuring unit ’ means any unit published or prescribe in terms of [section 3 of the Measuring Units and National Measuring Standards Act, 1973] section 2 of the <u>Measurement Units and Measurement Standards Act, 2006 (Act No. 18 of 2006, but does not include any such unit which, by regulation made under this Act, is excluded for the purposes of this Act;</u> ”;	40
		(e) the deletion of the definition of “ president ”.	45
		2. Amendment of section 2 by—	
		(a) the substitution for subsection (1) of the following subsection:	
		“(1) The [SABS Council] <u>Board</u> shall appoint a Director of Trade Metrology.”;	50
			55

No. and year of Act	Short Title	Extent of amendment	
		(b) the substitution for subsection (2) of the following subsection: “(2) The [SABS Council] <u>Board</u> shall appoint a Deputy Director of Trade Metrology, who may, subject to the control and directions of the director or in absence of the director or if the director is for any other reason unable to perform his or her duties or if the post of director is temporarily vacant, do anything which may lawfully be done by the director.”.	5
		3. Amendment of section 3 by— (a) the substitution for subsection (1) of the following subsection: “(1) The [SABS Council] <u>Board</u> may from time to time, on the recommendation of the director, appoint inspectors or verification officers to verify or test all measuring instruments or any particular kind of measuring instrument in accordance with the provisions of this Act.”;	10
		(b) the substitution in subsection (2) for paragraph (b) of the following paragraph: “(b) he holds a certificate issued to him by the [SABS Council] <u>Board</u> to the effect that he is qualified to act as an inspector or verification officer in respect of all measuring instruments or a particular kind of measuring instrument.”.	15
		4. Section 4 is hereby substituted by the following section: “Appointment of examiners 4. The [SABS Council] <u>Board</u> may, on the recommendation of the director, appoint examiners to exercise the functions of examiners under this Act.”.	20
			25
			30
			35
			40
			45

No. and year of Act	Short Title	Extent of amendment
		5. Section 5 is hereby amended by the substitution for subsections (1) and (2) respectively of the following subsections: “(1) Subject to the control of the Minister, this Act shall be administered by the [SABS Council] Board and by the director, inspectors, accredited laboratories, verification officers and examiners, who shall perform their duties under the control of the [SABS Council] Board. (2) The [SABS Council] Board may, subject to the conditions it may impose, delegate or assign to the [president] Chief Executive Officer any power or duty conferred or imposed on it by section 3 or 4.”. 6. Section 7 is hereby amended by the substitution for subsections (1) and (2) respectively of the following subsections: “(1) The Minister may, after consultation with the [SABS Council] Board, assign in writing to any statutory body or provincial government the carrying out, subject to such conditions and requirements as may be prescribed by regulation, of any function specified in this Act. (2) The [SABS Council] Board may in writing, on the recommendation of the director, designate any accredited laboratory to verify all measuring instruments or any particular kind of measuring instrument in respect of which such laboratory is accredited.”. 7. Section 22A is hereby amended by the substitution for subsection (1) of the following subsection: “(1) Any fees collected and costs recovered in terms of section 18 or section 22(1) shall constitute revenue of the [SABS Council] Board and shall be dealt with in accordance with the provisions of the [Standards Act, 1993 (Act No. 29 of 1993)] National Regulator for Compulsory Specifications Act, 2008.”. 8. Section 24 is hereby amended by the substitution for subsection (3) of the following section: “(3) Any costs incurred by the [SABS Council] Board in connection with any appeal which in the opinion of the committee is based on frivolous grounds, shall be borne by the appellant.”.
		5
		10
		15
		20
		25
		30
		35
		40
		45
		50
		55

No. and year of Act	Short Title	Extent of amendment	
		9. Section 27 is hereby amended by the substitution for subsection (8) of the following subsection: “(8) The Minister shall before the publication of any notice under subsection (1) consult the Board referred to in [section 6(1) of the Measuring Units and National Measuring Standards Act, 1973, or if there is no such board, the Council of the South African Bureau of Standards referred to in section 6 of the Standards Act, 1993 (Act No. 29 of 1993), and the Board of the CSIR referred to in section 7 of the Scientific Research Council Act, 1988 (Act No. 46 of 1988)] section 10 of the Measurement Units and Measurement Standards Act, 2006 (Act No. 18 of 2006).”. 10. Section 45 is hereby amended by the substitution for subsection (1) of the following section: “(1) The [President] Chief Executive Officer may, if he or she is of the opinion that it is necessary in the public interest and to protect the consumer, reveal in any manner- (a) any information which in his or her opinion is necessary to prevent the public from being misled concerning any aspect regulated by this Act; (b) the name of a person who in his or her opinion does not comply with any provision of this Act.”.	5 10 15 20 25 30 35
Act 103 of 1977	National Building Regulations and Building Standards Act	1. Amendment of section 1 by— (a) the insertion after the definition of “architectural area” of the following definition: “‘Board’ means the Board as defined in section 1 of the National Regulator for Compulsory Specifications Act, 2008;”; (b) the deletion of the definition of “bureau”; (c) the deletion of the definition of “council”; (d) the insertion after the definition of “Minister” of the following definition: “‘National Regulator’ means the National Regulator as defined in section 1 of the National Regulator and Compulsory Specifications Act, 2008;”.	40 45 50 55

No. and year of Act	Short Title	Extent of amendment	
		2. Section 28 is hereby amended by the substitution for subsections (1), (2) and (3), respectively, of the following subsections: “(1) The Minister may on such conditions as he may think fit, in writing delegate any power conferred on him by or under this Act, other than a power referred to in section 2(2) or (4), 9(2), 17, 19, 20, 27 or 29 to the [director-general] <u>Chief Executive Officer</u> of the bureau, but the delegation of any such power shall not prevent the exercise thereof by the Minister himself. (2) The council may in writing delegate any power conferred upon it— (a) by or under this Act, other than a power referred to in section 17 or 27, to the [director-general] <u>Chief Executive Officer</u> of the bureau; (b) in terms of section 18(2), in such conditions as it generally or in any particular case may think fit, to any local authority or category of local authorities, but the delegation of any such power shall not prevent the exercise thereof by the council itself. (3) The [director-general] <u>Chief Executive Officer</u> of the bureau may in writing delegate any power delegated to him in terms of subsection (1) or (2) to any person in the employ of the bureau, but the delegation of any such power shall not prevent the exercise thereof by the [director-general] <u>Chief Executive Officer</u> himself.”.	5 10 15 20 25 30 35

No. and year of Act	Short Title	Extent of amendment
		3. The word “bureau” is hereby substituted for “National Regulator” wherever it occurs in Act 103 of 1977. 4. The word “Council” is hereby substituted for the word “Board” wherever it occurs in Act 103 of 1977 except in the definition of “local authority”.